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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,796	07/02/2003	Peter Wiltsch	2630	5331

7590 06/29/2004  
STRIKER, STRIKER & STENBY  
103 East Neck Road  
Huntington, NY 11743

EXAMINER

DAVIS, OCTAVIA L

ART UNIT PAPER NUMBER

2855

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/612,796

**Applicant(s)**

WILTSCH, PETER

**Examiner**

Octavia Davis

**Art Unit**

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/2/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Angermaier et al.

Regarding claim 1, Angermaier et al disclose a method for avoiding misdetection in a diagnosis of a tank venting system comprising a fuel tank 11, which is directly connected with an intake manifold 23 of an internal combustion engine 10 by means of at least one storage unit 14 and a tank ventilation valve 24, wherein the at least one storage unit has a ventilation line 17, 21 with a check valve 24 and during a tank ventilation, provides outgassed fuel from the fuel tank via the tank ventilation valve into the intake manifold, and wherein the tank ventilation device is checked during a diagnosis for tank leakage, wherein during the tank ventilation, a pressure in the fuel tank is adjusted by means of the check valve, which at least at a median, is commensurate with a predetermined diagnosis pressure in the fuel tank during the diagnosis (See Col. 3, lines 48 – 51 and Col. 6, lines 3 – 24).

Regarding claims 2 and 3, the check valve 24 is an electrical flow valve, which is cyclically opened and closed during the tank ventilation (See Cols. 4 and 6, lines 28 – 31 and 2 – 9).

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Regarding claim 4, the pressure in the fuel tank 11 is controlled by means of a control apparatus 27, wherein the control apparatus conveys the pressure in the fuel tank measured by a pressure sensor as a control variable via a control line (See Col. 3, lines 49 –56).

Regarding claim 5, the pressure in the fuel tank is controlled by means of a two-point control means 16 between an upper threshold pressure and a lower threshold pressure (See Col. 3, lines 5 – 64).

Regarding claim 6, the diagnosis of tank leakage is performed by means of a negative pressure in the fuel tank (See Col. 5, lines 45 – 47).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7 – 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Angermaier et al in view of Hafner.

Regarding claims 7 - 10, Angermaier et al disclose all of the limitations of these claims except for a teaching that the mass of the fuel outgassed from the fuel tank is calculated by means of a mass balance, the calculation taking place during the tank ventilation and only during predetermined operating conditions. However, Hafner discloses methods and devices for measuring pressure comprising a liquid tank 92 including liquid 90 and calculation means 100

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which calculates the mass of the storage tank contents (See Col. 4, lines 19 – 26, 34 – 47 and 56 – 62, Col. 5, lines 12 – 16, Col. 6, lines 60 – 68 and Col. 7, lines 1 – 18).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Angermaier et al according to the teachings of Hafner for the purpose of, providing a method and apparatus for measuring more accurately and in a simpler manner, a pressure of a fluid greatly alleviating the detrimental influence of hydrostatic fluid penetrating in the measuring chamber (See Hafner, Col. 2, lines 5 – 10).

### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Maresca, Jr. et al (5,078,006) teach a method of determining the presence and temperature compensated volumetric flow rate of leaks in fluid pressure pipelines.

Gras et al (5,881,700) teach a tank venting device for motor vehicles having an internal combustion engine supplied from a fuel tank.

Kolb (6,328,022) teaches a method for testing the tightness of a fuel tank in a motor vehicle.

6. Any inquiry concerning this communication should be directed to Examiner Octavia Davis at telephone number (571) 272 - 2176. The examiner can normally be reached on Monday - Thursdays (9:00 - 5:00), Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz, can be reached on (571) 272 - 2180. The fax phone number for the organization where this application where this application or proceeding is assigned is (703) 872 – 9306.

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6/21/04

  
EDWARD LEFKOWITZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800